

DISTRICT COURT  
**FILED**

IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

JUN 18 2014

MAGALY GONZALES NUCAMENDI,  
Plaintiff,

Case No. CJ-2014

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

v.

K-MAC HOLDINGS CORP. d/b/a  
Taco Bell  
A foreign corporation  
Defendant.

**CJ-2014-02365**

**DANA LYNN KUEHN**

**PETITION**

The Plaintiff Magaly Gonzalez Nucamendi (Plaintiff) by and through her attorney, Brendan M. McHugh, hereby submits her Petition against Defendant Holdings K- Mac corporation d/b/a Taco Bell. In support thereof, Plaintiff alleges and states as follows:

1. Plaintiff is an individual who is a former employee of Defendant.
2. Defendant is a foreign corporation owns and operates numerous Taco Bell restaurants in Oklahoma including the one Plaintiff was employed at.
3. Plaintiff is in a protected class in that she is Hispanic and Defendant engaged in race and national origin discrimination in violation of 42 U.S.C. §1981 by terminating and/or constructively discharging Plaintiff based on her race. Such conduct also includes invidious race discrimination and creating a hostile work environment, as set forth below:
4. Plaintiff began her employment on June 5, 2010, in the kitchen/preparation at the Taco Bell store operated by defendant on 8109 E. 74<sup>th</sup> Pl. Tulsa. Plaintiff held the title of Shift Manager prior to being demoted. At all times Plaintiff performed her job duties in a satisfactory manner. During her employment, a white manager, Donna Boisenia treated the Hispanic employees worse than others. Boisenia refused to allow Plaintiff and other Hispanic employees off work for illness, vacation days and for other reasons which she would allow Non-Hispanics

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these privileges. On one occasion, a subordinate employee verbally attacked Plaintiff and tried to hit her. Boisenia did nothing to punish the aggressor for having engaged in misconduct. The aggressor was not Hispanic. During Plaintiff's last year of work, Plaintiff became pregnant and had a child. When Plaintiff returned to work, Boisenia demoted Plaintiff and told Plaintiff she was no longer manager and she replaced Plaintiff with Carol (a white worker) and reduced Plaintiff to seventeen (17) hours of work.

5. Defendant paid Plaintiff less than non-Hispanic employees doing the same work with less experience. Plaintiff complained to Boisenia many times.

6. Plaintiff's race and national origin was a significant motivating factor in the treatment she received.

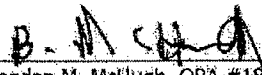
7. Additionally, Plaintiff availed herself of her rights under 85 O.S. §§ 1 et seq. by seeking necessary medical treatment and filing a claim. Defendant retaliated against Plaintiff by terminating and/or constructively discharging her in violation of 85 O.S. § 341.

8. As a result of Defendant's conduct, Plaintiff has sustained substantial damages in excess of \$75,000.00.

9. Defendant acted with reckless disregard for the rights of Plaintiff, intentionally and with malice and with conscious disregard of the federally secured rights of Plaintiff as such, punitive damages in excess of \$75,000.00 should be assessed against them.

10. That Plaintiff should be awarded a reasonable amount of attorney fees and costs incurred herein.

WHEREFORE, for all of the foregoing reasons, Plaintiff respectfully requests an award of actual damages in excess of \$75,000.00, an award of punitive damages in excess of \$10,000.00, the costs of this action and any other and further relief this Court deems proper.

  
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**JURY TRIAL DEMANDED**

**ATTORNEY LIEN CLAIMED**